IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Writ Petition No. 1033 of 1992

Sayed Ahmed Hussain .. Petitioner.
V/s.
The Municipal Corporation of
Greater Bombay & Others .. Respondents.

Ms. Deepa Mali for the Petitioner.
Ms. Shobha Asithkumar for the Respondents.

CORAM : S. RADHAKRISHNAN &
S.J. VAZIFDAR, JJ.
DATED : 14.09.2004.

P.C.:-

1. By this Petition, the Petitioner is claiming to be having an industrial gala at 48-D, Gulshan Mahal, on Nimkar Marg, which is a non-conforming zone, seeks a relief that the Petitioner should be granted a gala in a conforming zone in Greater Bombay. The learned counsel for the Petitioner brought to our notice as per the policy of the Respondent Corporation, the Respondent Corporation is entitled to provide such gala to the persons, who are to be rehabilitated from non-conforming areas.

2. It is the case of the Petitioner that the Petitioner has been repeatedly making representations in that behalf, however, there has been no response from the Respondent Corporation. This Petition was admitted by this Court on 9.6.1992 and the Petitioner was allowed to continue in the said gala until a suitable alternate accommodation was provided to the Petitioner.

3. There is no Affidvit-in-Reply filed on behalf of the Respondent Corporation, inspite of number of adjournments. A perusal of the documents annexed to the Petition indicates that the Petitioner has been granted a factory licence under section 390 and 479 of the Bombay Municipal Corporation Act and even the said Certificate has been renewed subject to the condition that the Petitioner should shift to conforming zone from the non-conforming area.

4. Having regard to the facts and circumstances of the matter, we direct the Respondent Corporation to consider the case of the Petitioner whether to grant a gala or not. The Petitioner to make an appropriate application in this behalf within a period of four weeks from today and the Respondent Corporation to decide the same within eight weeks thereafter. Needless to say that in the event of passing of any order that were to be adverse to the Petitioner, the said order shall not be given effect to, for a period of two weeks thereafter. Rule made absolute in the above terms.

(S. RADHAKRISHNAN, J.)

(S.J. VAZIFDAR, J.)